

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Staffing and Communications
Portfolio Holder

AUTHOR/S: Chief Executive / HR Officer

27 June 2007

REVISED CRIMINAL RECORDS BUREAU (CRB) POLICY AND PROCEDURES FOR EMPLOYEES

Purpose

1. The purpose of the report is to provide a revised Criminal Records Bureau (CRB) policy and procedures for job applicants and employees. This follows the review of all CRB policies and procedures reported to SMT and the Resources, Staffing, Information and Customer Services Portfolio Holder in November 2006.

Executive Summary

2. The main impact of the CRB Assurance visit in August 2006 concerns eligibility for requesting a CRB check and the nature of the information received from the CRB. The policy has been reviewed in light of that report, further guidance from CRB and the results of a survey to review what other local Councils are doing as regards CRB checks.
3. The report recommends that the Portfolio Holder
 - (a) endorse Appendix A the revised CRB Policy and procedure;
 - (b) endorse the modifications to the level of check proposed in Appendix C based on the eligibility criteria;
 - (c) endorse a variation to contract for all employees requiring employees to declare relevant cautions, charges or convictions once employment has commenced.

Background

4. The Council as a registered body is bound by the "Code of Practice and Explanatory guide for Registered Persons and other recipients of Disclosure Information" and other guidance issued on the workings of the Code of Practice by the CRB.
5. The "Recruitment of Ex-Offenders" Policy and "Secure Storage, handling, retention and disposal of information" Policy were updated in November 2006 following the CRB Assurance visit.
6. The revised CRB policy and Process is attached as Appendix A.
7. The East of England Regional Assembly conducted an e-mail survey on behalf of the Council to assess what other Councils are doing. 15 Councils, from all levels, responded in some way to the survey and the results are attached as Appendix B.
8. The list of posts requiring a CRB check presented to Cabinet in March 2006 has been reviewed against the eligibility criteria and the results are provided in Appendix C with recommendations to change the level of checking.

Considerations

9. A number of changes have been made to the CRB Policy to reflect the guidance provided by the CRB Assurance Manager on the Assurance visit in August 2006, other updated guidance from the CRB and information received in the survey of other Councils. The main changes involve:
 - (a) Removal of the requirements concerning storage and disposal of information and the Rehabilitation of Offenders to separate policies (previously circulated to SMT and the Resourcing, Staffing, Information and Customer Services Portfolio Holder in November 2006);
 - (b) Provision of a more rigorous explanation of what the effect of asking for a CRB disclosure is for the Council and the individual;
 - (c) Clarification of the checks the Council will use so that only a standard or enhanced check will be acceptable;
 - (d) A changed provision that the Council will not accept portability of CRB checks between employers;
 - (e) Provision of a risk assessment process following a CRB disclosure for employing people with criminal records;
 - (f) Provision of a process where disclosures for existing staff and rechecking of staff show information and the implications of receiving additional information which cannot be revealed to the employee;
 - (g) Insertion of a new Appendix to assess whether posts are eligible for a CRB check.
10. The survey of Councils has highlighted that the issue of checks for existing staff, which reveal new or additional information causes concerns to many Councils. For the majority there would be some sort of risk assessment involving the legal team, CRB and the police and this is the approach is proposed in the revised policy. It is noticeable that many Councils require employees to provide information if they are charged, cautioned or convicted of a relevant offence. Some Councils apply this to all employees, some to those who are covered by a CRB check only. Some Councils refer to "offences relevant to the role" only.
11. Requiring all employees to declare relevant cautions, charges and convictions during the course of employment will require a variation to contract to be issued to all employees and could be made at the same time as the changes to contract following the 2nd tier restructure. This could be done by a collective agreement or by serving 3 months' notice of the change to all employees. In most cases the change would be achieved through mutual consent, but in a limited number of cases an imposed change might be necessary.
12. A reduced number of Councils provided copies of their guidance on eligibility for CRB checks but all seem to comply with the CRB guidance to only check those working with children and vulnerable adults and are not checking legal or finance posts, unless they work in an area where this would happen. It is reassuring to note that one Council had recently been assurance checked by the CRB and received similar advice to ourselves about eligibility. Other Councils appear to experience the same tension between the CRB guidance and the current "Safeguarding Children" agenda, which seeks to ask for a check on almost anyone coming into contact with children or information in relation to vulnerable families.
13. No checks on legal or finance employees does mean that the normal reference checks become more important and the Reference Form is being reviewed as part of the main review on Recruitment and Selection processes. The requirement to declare

cautions etc would also help to mitigate any concerns about not doing CRB checks for this group.

14. Appendix C shows the result of applying the revised CRB eligibility criteria to current posts. The number of Enhanced checks required is reduced. Current job descriptions do not appear to show that the Council has many roles that qualify for enhanced check because staff have unsupervised regular contact with children or meet the definition for an enhanced check for vulnerable adults. Posts will need to be reviewed as job descriptions change and it is proposed that this becomes a standard question each time a job description is written or reviewed.

Options

15. The Council could continue with the status quo and current policy of checking the staff.
15. However, this route ignores the advice from the CRB Assurance Manager and the changing advice and practice in other local Councils since the last review of the Policy in 2004 and leaves the Council open to challenge.
16. The Council could decide the risks associated with carrying out checks on particular roles are limited and continue to carry the checks as listed in March 2006, but this will give problems going forward as new posts are measured against the eligibility criteria. It is proposed that as rechecks or new checks are done the level requested would reflect the revised criteria. The Council could continue to make checks without planning further action as to information revealed. However, it is considered that although the risk of it happening is small, the potential impact on the Council, particularly for existing employees, is severe and that a planned approach is necessary.

Implications

17. The legal, staffing and risk management implications have been highlighted under Considerations.

18. Financial	There are financial implications if a challenge to the right to ask for a disclosure were made.
Legal	See body of report
Staffing	See body of report
Risk Management	See body of report
Equal Opportunities	The request for a disclosure relates to the post and not individual. There are potentially equal opportunity implications for overseas job or taxi driving applicants if they cannot provide adequate information.

Consultations

19. The Licensing Officer and HR Manager as counter signatories have been consulted. The trade unions have been consulted. UNISON has raised no concerns, the GMB has not responded to date.

Effect on Annual Priorities and Corporate Objectives

20.	Affordable Homes	An appropriate system for CRB checks enhances public confidence. Public confidence is essential in the achievement of the Council's corporate objectives.
	Customer Service	
	Northstowe and other growth areas	
	Quality, Accessible Services	
	Village Life	
	Sustainability	
	Partnership	

Recommendations

21. It is recommended that the Portfolio Holder
- (a) endorse Appendix A the revised CRB Policy and procedure;
 - (b) endorse the modifications to the level of check proposed in Appendix C based on the eligibility criteria;
 - (c) endorse a variation to contract for all employees requiring employees to declare relevant cautions, charges or convictions once employment has commenced.

Background Papers: the following background papers were used in the preparation of this report:

CRB Code of Practice and associate guidance

Report to Leader and Cabinet dated 9th March 2006 "Implementation of Protection of Vulnerable Adults Policy"

CRB Assurance Report dated August 2006

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